

Amendment

Reply to Office Action dated September 18, 2007

REMARKS

The foregoing amendments and these remarks are in response to the Office Action dated September 18, 2007. This amendment is filed with a request for a one-month extension of time and authorization to charge Deposit Account No. 50-0951 for the appropriate fees.

At the time of the Office Action, claims 1-10 were pending in the application. Claim 10 has been withdrawn from consideration. Claims 1-9 were rejected under 35 U.S.C. §103(a). The rejections are discussed in more detail below.

I. Restriction Requirement

Applicants hereby affirm the election of Invention I, claims 1-9 drawn to a composition comprising polyisoprene and a process of preparing a cosmetic composition comprising polyisoprene, classified in class 424, subclass 78.08. Applicants hereby withdraw claim 10 from consideration. As claim 10 is dependent upon claim 1, Applicants request rejoinder of claim 10 should claim 1 be deemed allowable.

II. Claim Amendments

Claim 1 has been amended by deletion of the words "polyisoprene-containing" in line 1 and the addition of the words "comminuted solid" before the word "polyisoprene" in line 4. Support for the amendment "comminuted solid" can be found in the specification, original claim 10 and in column 1, paragraph [0011], lines 8-17 thereof in the published application.

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III. Rejections on Art

A. Claims 1-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,945,095 to Mougin et al. (hereafter "Mougin") in combination with U.S. Patent Publication No. 2003/0195486 to Gatto et al. (hereafter "Gatto"). Applicants respectfully submit that the claims are patentable over these references. In particular, Applicant notes that Mougin discloses a cosmetic composition which comprises a dispersion of polymer particles in a fatty substance. These polymer particles are particles of a film-forming or non-film-forming polymer, examples of which are set forth at column 4, of Mougin. Polyisoprene is not mentioned. The polymer particles are surface-stabilized with a stabilizer, which may be a sequential or grafted polymer (see column 6, lines 56-60). An example of such a sequential polymer, to be used as surface stabilizer for the polymer particles, is mentioned in column 7, line 43, as being polystyrene/polyisoprene. Thus, this polyisoprene-containing copolymer is used as a surface stabilizer for polymer particles, which is entirely different from the features of claim 1, in which polyisoprene as such, and not as a monomer of a copolymer as a surface stabilizer on polymer particles is used. Deletion of the words "polyisoprene-containing" from original claim 1 clarifies this point. The features of amended claim 1 cannot read on the diblock surface stabilizing copolymer containing polyisoprene taught by Mougin.

Gatto in combination with Mougin also does not lead to Applicants' invention as recited by the claims. Gatto discloses an absorbent article like a diaper or a sanitary napkin, which contains a stable skin care composition. This composition can contain a variety of ingredients, but polyisoprene is not mentioned. There is no teaching whatsoever in Gatto to use those organoclays in compositions according to Mougin. Even if there would have been such a teaching, it would still not lead to that which is recited by claim 1. Applicants therefore respectfully request reconsideration of this rejection of claims 1-9, and allowance of the amended claims.

B. Claims 1-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,471,983 to Veeger et al. (hereafter "Veeger") as evidenced by Kraton IR 401 (hereafter "Kraton IR-RP401") brochure of record in view of U.S. Patent

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Publication No. 2003/0044469 to Viladot (hereafter "Viladot"). The amended claims are patentable over these references.

Veeger discloses the use of a polyisoprene latex in a cosmetic composition. Amended claim 1 does not read on a polyisoprene latex, but on comminuted solid polyisoprene, which is significantly different from Veeger's latex. Veeger, furthermore, uses a polyisoprene latex with the designation Kraton IR-RP401, but the molecular weight of this material is not provided. Kraton IR-RP401 brochure is cited in this respect, but it is respectfully pointed out that this brochure was published in September 2003, and therefore does not constitute prior art against the instant application, which claims a priority date of March 2003. Consequently, Veeger does not disclose the use of a comminuted solid polyisoprene with a molecular weight of between 100,000 and 4,000,000. Even if it could have been shown in the prior art that Kraton IR 401 had a MW within this range, Veeger still would not have taught to use such a polyisoprene in comminuted solid form.

Viladot does not add anything to Veeger. Viladot is concerned with a cosmetic composition, which contains particular microcapsules. This composition can contain a host of different additives, but polyisoprene is nowhere mentioned. Although Viladot mentions the possible addition of consistency factors and thickeners to his composition, including e.g. disteardimonium hectorite, a combination of that teaching with Veeger would still not lead to Applicants' invention, which requires as essential ingredient a comminuted solid polyisoprene with a particular range of molecular weight.

Consequently, it is submitted that the cited prior art does not render the present invention obvious under 35 U.S.C. §103(a), and it is respectfully requested that the application be reconsidered and allowed with the amended claims.

IV. Conclusion

Applicants have made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the

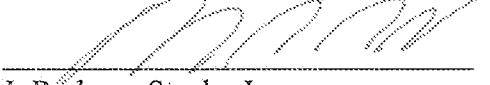
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foregoing remarks, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

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J. Rodman Steele, Jr.
Registration No. 25,931
Mark D. Passler
Registration No. 40,764
AKERMAN SENTERFITT
Post Office Box 3188
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000